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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/471,890	06/07/1995	DONALD R. HUFFMAN	MITS-003/05US 308622-2007	9010
58249	7590	03/02/2011	EXAMINER	
COOLEY LLP ATTN: Patent Group Suite 1100 777 - 6th Street, NW WASHINGTON, DC 20001			YUAN, DAH WEI D	
			ART UNIT	PAPER NUMBER
			1727	
			MAIL DATE	DELIVERY MODE
			03/02/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

08/471,890

Applicant(s)

HUFFMAN ET AL.

Examiner

Dah-Wei Yuan

Art Unit

1727

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 December 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 23 December 2010. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 122-124, 126, 130 and 131.
Claim(s) objected to: 125.
Claim(s) rejected: 127-129 and 132-163.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Dah-Wei D. Yuan/

Supervisory Patent Examiner, Art Unit 1727

Continuation of 3. NOTE: The proposed amendment filed on 12/23/2010 raises new issues that would require further consideration.

It appears that the proposed amendments to claims 128, 129 and 132 by adding the limitation "purified" before "cage molecules" would not overcome the rejections set forth in the final Office action dated 6/23/2010 for these claims because the transition phrase "comprising" in these claims is open-ended and the claims are therefore not limited to purified cage molecules consisting of carbon atoms; consequently, these proposed amendments to claims 128, 129, and 132 would require further consideration.

Similarly, the proposed amendment to claim 127 by amending the claim to read "a product comprising purified C60 and/or C70" would not overcome the rejections set forth in the final Office action dated 6/23/2010 because the transition phrase "comprising" is open-ended and claim 127 is not limited to purified C60 and /or C70. It is unclear how the proposed amendment to claim 127 overcomes the rejections set forth in the final Office action. Applicants have not explained in the amendment filed on 12/23/2010 how these proposed amendments for claims 127-129 and 132 overcome the rejections set forth in the final Office action dated 6/23/2010. These new issues in the proposed amendments for claims 127-129 and 132 filed on 12/23/2010 therefore do not place the application in better form for appeal because they do not reduce or simplify the issues for appeal. The proposed amendments for claims 133 and 150 contain allowable subject matter. Both proposed independent claims 133 and 150 are product-by-process claims for purified cage molecules consisting of carbon atoms and are narrower in scope than independent claim 122. However, there are some issues of clarity for proposed claims 133 and 150. Furthermore, the preambles of their dependent claims would lack antecedent basis since the preambles of proposed claims 133 and 150 have been amended and not those of the corresponding dependent claims.